

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

FREDERICK CARTER	§	
VS.	§	CIVIL ACTION NO. 9:19-CV-164
TERRY ANDREWS, <i>et al.</i> ,	§	

MEMORANDUM ORDER OVERRULING OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

Plaintiff, Frederick Carter, an inmate formerly confined at the Polunsky Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendant Terry Andrews.¹

The court referred this matter to the Honorable Keith Giblin United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends granting defendant Andrews’ Motion for Summary Judgment for failure to exhaust administrative remedies (docket entry no. 49).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleading. Plaintiff filed objections to the Report and Recommendation of United States Magistrate Judge (docket entry no. 54). This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court finds plaintiff’s objections lacking in merit. Plaintiff has simply failed to put forth competent summary judgment evidence that demonstrates plaintiff ever attempted to file a step 1 or step 2 grievance relating to the August 22, 2015 incident with defendant Andrews. There is no competent summary judgment evidence that demonstrates plaintiff filed a grievance or an I-60 complaining his grievance regarding the August 22, 2015 incident went missing.

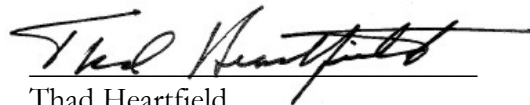
¹On August 16, 2021, plaintiff filed a Notice of Change of Address (docket entry no. 56) indicating he has been released from prison.

In conclusion, plaintiff has failed to come forward with specific facts or competent summary judgment evidence showing that a genuine dispute of material fact exists regarding the failure to exhaust administrative remedies with respect to plaintiff's claims against defendant Andrews.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A final judgment will be entered in accordance with the recommendations of the Magistrate Judge.

SIGNED this the **24** day of **August, 2021**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge